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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/31/2000

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EXAMINER

OMOTOSHO, EMMANUEL

ART UNIT

PAPER NUMBER

3714

MAIL DATE

DELIVERY MODE

06/10/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 09/703,171</p>	<p>Applicant(s) SAFAEI ET AL.</p>	
	<p>Examiner EMMANUEL OMOTOSHO</p>	<p>Art Unit 3714</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 May 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Ronald Laneau/
Supervisory Patent Examiner, Art Unit 3714

Continuation of 11. does NOT place the application in condition for allowance because: Applicant argues "Applicant respectfully submits that the Examiner has significantly downplayed the features of the present invention by labeling such features as a "design choice." Marshall '995 illustrates and describes a highly structured drop down menu architecture for visually displaying race information. As discussed extensively in applicant's last amendment, referring to Figs. 93- 99, access to the information and various displays in the Marshall '995 system proceeds through the flow chart structure of Fig. 91 and is presented to the user in the selection screen of Fig. 92. Applicant acknowledges that, eventually, a user of the system will be able to determine what races are run at a selected track on a selected date. However, there is no possible configuration of the architecture structure disclosed in Marshall '995 that will result in the user being provided with a single visual interface having a listing of a plurality of tracks along with a listing of all of the races at each of the tracks for the date selected....the customization feature referred to in paragraph 0019 does not relate to the graphical displays. The customization feature is an option for the IVR embodiments described in Marshall '995. The "IVR" embodiments relate to "Interactive Voice Response." In other words, this customization feature does not relate to the graphical interface embodiments in the reference, but to voice (e.g., telephone) embodiments. The IVR customization process is further described in paragraph 0184 of the reference." The examiner respectfully disagrees. It is not the examiner's intent to downplay the features of the present invention in any way. As shown in the final office action, the Marshall reference teaches that the system is customizable. Furthermore, as shown in the final office action, the Marshall reference teaches that the system stores races, the track for each race and the status for each race. Since the Marshall reference teaches that the system is customizable, at least a data source that stores races, the track for each race and the status for each race, providing a customizing menu that allows the user to customize the type of information pulled from a data source and displayed to the user would have been an obvious design choice well within the skill set of an ordinary skilled artisan. Applicant further argues, "Applicant respectfully submits that characterization of the present invention as a "mere matter of design choice" in view of Marshall'995 lacks reasonable foundation. The advantages of the present invention are only appreciated after consideration of the present disclosure. The presentation of comprehensive information in accordance with the present claims is a vast improvement upon the drop down menu architecture of Marshall '995 wherein such information may be eventually obtained, but only for a single race at a single track, and such improvement and advantages should be given due consideration." The examiner respectfully disagrees. As shown in the final office action, to use a drop down menu option or not is a matter of obvious design choice well within the skill set of an ordinary skilled artisan. To choose to display a larger/lesser subset of the information stored in a data source is matter of obvious design choice well within the skill set of an ordinary skilled artisan.